THE COMMISSION OF INQUIRY INTO THE CASE OF THE CUBAN 5 HELD IN LONDON ON FRIDAY 7 AND SATURDAY 8 MARCH 2014

CONSTITUTION OF COMMISSION

The Commission was constituted at the instance of the International Cuban Solidarity Committee after international consultation. They are all retired judges, renowned members of the international judicial community: Commissioner Yogesh Kumar Sabharwal, India, former Chief Justice of India; Commissioner Philippe Texier, France, former Judge, French Court de Cassation; and Commissioner Zakeria Mohammed Yacoob, South Africa, former Justice of the Constitutional Court of South Africa.

The Commission was served by two co-ordinators: Professor Sara Chandler, UK, solicitor, Chair of the Human Rights Committee of Law Society of England & Wales and Elizabeth Woodcraft, UK, barrister and author.

REPORT OF THE EVIDENCE AND FINDINGS OF THE COMMISSION

(A) Introduction

1. At the close of the hearings of the Commission in London on 8 March 2014, we issued a report in which we expressed our preliminary views. We undertook then to produce a more detailed final report which we do now. We may say at the outset that we confirm our preliminary views and conclusions. This International Commission was appointed to hear evidence and argument from all interested parties and to make recommendations on whether, in all the circumstances, justice required that 5 Cuban nationals (who have come to be known as the Cuban 5), convicted of certain offences in Miami, Florida, United States of America be pardoned and that those persons still serving terms of imprisonment pursuant to their convictions be unconditionally released. The Cuban 5 are: Mr. Gerardo Hernández Nordelo (Mr. Hernández), Mr. Ramón Labañino Salazar (Mr. Labañino), Mr. Antonio Guerrero Rodríguez (Mr. Guerrero), Mr. Fernando González Llort (Mr. Llort), and Mr. René González (Mr. González). They were all convicted during 2001 of certain state security related offences. Mr. Hernández was, in addition, convicted of a conspiracy to commit murder. Mr Gonzalez and Mr Llort have been released from prison already but the other three people who were convicted remain in custody.

2. The Commission received written and oral argument and heard evidence from * witnesses whose names and designations are set out in Schedule A. In broad terms, evidence and argument was presented by lawyers and families of the Cuban 5, expert lawyers including an

international law expert, Amnesty International and Cuban officials responsible for intelligence. It bears mention at the outset that Amnesty International's approach was consistent with all the other evidence we had received and supported the grant of pardons and immediate and unconditional release of the Cuban 5. The Commissioners had access to the evidence presented in the case and all relevant judgments:

a. the judgment of the District Court on the application for change of venue decided on 27 July 2000;[1]
b. the judgment of the three judge panel of the Court of Appeals of the 11th Circuit upholding the appeal and ordering a change of venue decided on 9 August 2005;[2]
c. the *en banc* judgment of the 11th Circuit of the Court of Appeals vacating the judgment of the 3 person Court of Appeal and holding that the change of venue judgment of the District Court should not have been set aside and referring the merits of the appeal for consideration to a 3 judge panel;[3]
d. the judgment of the 3 judge Bench rejecting by a majority the appeals on convictions but setting aside some of the sentences;[4] and
e. the judgment of the District Court on sentence.[5]

(B) Status of the Commission

3. We emphasise that this Commission has no legal status or power. No government or judicial authority in the United States of America or any other country is bound to do anything pursuant to this report. We have done our work, however in the belief that the moral persuasiveness of our report as well as its reasonableness and accuracy will result in greater support for the campaign for the release of the Cuban 5. We are also of the optimistic conviction that appropriate, sensitive and careful political decisions in the United States of America will result in the pardoning of the Cuban 5 and in the immediate and unconditional release from prison of the three members of the Cuban 5 who remain incarcerated.

(C) Description of the Court process

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1 District Court (DC) change of venue judgment.

2 Court of Appeals (CA) change of venue judgment.

3 The vacation judgment decided on 9 August 2006.

4 CA merits judgment decided 4 June 2008.

5 The re-sentencing judgment.

4. In early 2000 all the Defendants (the Cuban 5) ultimately made an application for a change of venue on the basis that the trial should not be held in Miami Florida because they will be "denied their rights to due process of the law and a fair trial with an impartial jury because of the inflamed atmosphere in this community concerning the activities of the Government of the Republic of Cuba."[6] The Government submitted that "Defendants have not met their burden of showing that a different jury venire is necessary in these circumstances" and in particular that "pervasive community prejudice exists". The change of venue application was denied on the basis that the Cuban 5 had "not demonstrated the degree of pervasive community prejudice (to) warrant a presumption of jury prejudice". The Court would ensure the "right to a fair and impartial jury in Miami". The Court also held that it would reconsider an application for change of venue if a fair and impartial jury could not be convened. In the event, a jury was convened and the Cuban 5's legal representatives conceded that the process of jury selection had been very good and that they had no problems with the jury.

5. The Cuban 5 were charged with, amongst other things, "conspiracy to become unregistered foreign agents, becoming unregistered foreign agents, and conspiracy to commit espionage". The conduct of Mr Hernández was "alleged to have culminated in the shoot-down of two private aircraft from the United States and the deaths of four members of Brothers to the Rescue, a Miami-based Cuban exile group".[7]

6. The trial proceeded but was plagued by much anti-Cuban 5 media publicity, concerns about the jurors being able to perform their functions appropriately as well as two motions for a mistrial and change of venue which were both denied.

7. All the accused were convicted of the conspiracies referred to earlier. Mr Hernández was, in addition, convicted of a conspiracy to commit murder of four people who died as a result of the shoot down of two aeroplanes which took off from American soil to conduct anti-Cuban activities in Cuba. He received two life sentences, Messrs Guerrero and Labañino were sentenced to life, Mr Llort got 19 years imprisonment and Mr González to 15 years.

8. The appeal to the 11th Circuit of the Supreme Court succeeded. The three judge panel unanimously reversed their convictions and remanded the case back to the District Court for retrial on the basis that the "pervasive community prejudice against Fidel Castro and the Cuban government and its agents and the publicity surrounding the trial and other community events combined to create a situation where they were unable to obtain a fair and

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6 DC change of venue judgment, page 2.

7 DC change of venue judgment, page 1.

impartial trial."[8]

9. The Government then made an application for an *en banc* review of the Court of Appeal change of venue judgment, in accordance with American courts procedural law. The majority of judges in the 11th Circuit voted for an *en banc* review with the result that all the judges of the 11th Circuit considered the review by the Government. The *en banc* Court split in the determination of "whether the district court abused its discretion when it denied their multiple motions for change of venue and for new trial". The majority affirmed the decision of the District Court but the minority was firm that the Court of Appeals was right in concluding that the trial had been unfair and ordering a re-trial. The review Court found that the merits of the appeal had to be determined (which had not been determined by the Court of Appeals in the change of venue decision) by a three judge panel.

10. The three judge panel considered the appeal on the merits and confirmed all the convictions. The panel did however set aside the life sentences imposed on Mr Guerrero and Mr Labañino as well as the 19 year sentence imposed on Mr Llort and remitted the matter to the District Court for new sentences.

11. The minority dissented on the issue of whether Mr Hernández was correctly convicted of a conspiracy to commit murder. We return to this later.

12. The District Court later re-sentenced Mr Labañino to 30 years imprisonment and Mr Guerrero to 21 years imprisonment and Mr Llort was sentenced to 17 years and 9 months.

13. Applications by the Cuban 5 for an *en banc* review as well as an effort to engage the Supreme Court were both refused. As at the date of this Commission's hearing in London there was pending a habeas corpus hearing.

(D) Discussion and findings

14. Most of the findings in this report confirm and elaborate upon the findings already in the preliminary report. We do however add certain additional matters which will be described as additional findings.

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[8] Court of Appeals change of venue judgment

(a) Change of venue (Preliminary Report)

15. We found in the preliminary report that "the trial was held in a part of Miami, Florida where, according to three respected judges of the Eleventh Circuit of the United States Court of Appeals, a fair trial could not be guaranteed".

16. The preliminary report dealt with this issue under the heading of a fair trial. We believe however that this is an independent issue though relevant to the question of a fair trial. The question is whether the decisions of all the courts concerning the defendants application for a change of venue have an impact, independently of whether the trial was ultimately fair on whether the defendants should be pardoned.

17. We have carefully studied the three judgments which relate to change of venue and have heard considerable evidence about the pervasive prejudice that the defendants suffered because the trial continued to be held in Miami. The District Court refused to allow a change of venue despite the fact that more than one application had been made to it and despite the fact that there had been extensive media publicity concerning the accused. We have heard persuasive uncontradicted evidence of the strong anti-Castro feeling in the Cuban American society of Florida, feelings so strong that they resulted in murderous attacks being perpetrated from American soil at the instance of Cuban Americans to destabilise the government of President Fidel Castro. We understand how difficult it would have been in that society in 1998 for any American, Cuban or not, to even express views which may be taken as even an indication that the government of President Fidel Castro may not be as evil or as heinous as people generally thought.

18. Neither the District Court nor the majority that sat *en banc* took sufficient cognisance, in our respectful view, of this pervasive public opinion against President Fidel Castro of Cuba and its likely prejudice to the Cuban 5. It is vital to remember that the Cuban 5 did not deny being representatives of the Cuban government and always accepted that they did work for Cuban intelligence and that each of them sympathised with the Cuban government and its policies. It would have been a different matter if the Cuban 5 had denied that they were Cuban government agents and the dispute that had to be resolved by the jury was whether they were agents of the Cuban government. In these circumstances it could be expected that jurors would adjudicate that debate fairly and openly. The majority of the population of Miami to put it simply fervently believed that the Cuban government was immoral and needed to be exterminated, that the Cuban government was dishonest and that the Cuban government was a threat to the United States of America. We ask the question whether it was even possible for a juror from the Miami community, at that time, to find that people who were admittedly agents of the Cuban government were reasonably honest, were to some degree honourable and had versions that could possibly be true. The whole trial was

shrouded in an atmosphere that made a finding by the jury that was favourable to admitted agents of the Cuban government virtually impossible. This conclusion must be elaborated.

19. First, it would have been difficult for jurors in Miami to think objectively about supporters of a government which they considered an evil regime in a just effort to determine whether they were speaking the truth. In these circumstances, it was unfortunate in our view for the District Court to have regard to statements by potential jurors that they are able to apply their minds objectively to the facts before them. This is because human beings are unlikely to make the concession that they are biased but there is also the possibility that their bias was not conscious but so subconscious that the potential jurors were not even aware of that bias. The determination of whether a potential juror is able to discharge his or her functions appropriately and fairly is not one that can be made from the point of view of the subjective juror concerned. The determination must always be objective. We have found it difficult to discover any objective evidence for any reasonable conclusion that potential jurors were indeed in a position to exercise a fair and objective judgment when the issues concerned admitted agents of a strongly perceived to be evil Castro regime with no potential for good.

20. It may have been thought that the exclusion of Cuban Americans from the jury could have alleviated the problem. This is in our view problematic. Cuban Americans and non-Cuban Americans lived together in the same communities; they worked in the same enterprises; they attended the same places of entertainment; they walked the same streets; their children attended the same schools. And what is more non-Cuban Americans too, would have regarded the Castro regime with as much, if not more, negative sentiment.

21. The case of the Cuban 5 was that they were passing information to Cuban intelligence so as to ensure that murderous attacks perpetrated by agencies and organisations which were spawned in Miami were reduced. In effect, they said that they were acting in the service of their country, in defense of their country and in an effort to stop people in Cuba being killed. The essence of their case was that this was legitimate activity. Consider the position of a juror who did ultimately hold that the Cuban 5, even though they were agents of the Cuban government, had no intention of harming the American government, had no intention to commit violence and had acted legitimately. In our respectful view, that juror would, objectively speaking, have found it impossible subsequently to continue to live secure comfortable lives in Miami. The human condition, fear, and above all, the need and desire of every human being to secure the safety of one's family, to live safely and to be respected by one's peers points inexorably away from the objective possibility that a potential Miami juror would be able to give a verdict perceived to be favourable to agents of the Cuban regime.

22. It is true as was pointed out by the *en banc* majority that the District Court went through a very careful jury selection process. But this is beside the point. There are circumstances in

which the storm of pervasive prejudice is so engrained into the very soul of the community concerned that careful jury selection is perfectly pointless. We have come to the view that this was the situation in Miami and, like the 3 judge panel that voted for a change of venue that a change in venue was the only way to ensure a fair trial.

23. The *en banc* Court of Appeals of the 11th Circuit also placed considerable reliance on the fact that the legal representatives of the accused were happy with the jury selection process and that they praised the District Court judge for the way in which the jury had been selected. But too much reliance on this factor was in our view inadvisable. Two are factors fell to be brought into the equation. The first is that the media campaign against the Cuban 5 continued even after the jurors had been selected. The second, perhaps more important factor that appears to have been ignored by the *en banc* majority was that even after the defense lawyers of the Cuban 5 expressed satisfaction about the jury two further change of venue applications were made. The real point is that it was not the jurors who were being objected to in their person. They were all probably honest human beings doing their best. The essential question is really this: How fair did the objective circumstances which were beyond their control permit them to be? In reality therefore, in our view, the fact that the lawyers were happy with the jury did not and could not by any means suggest that they were happy with the venue and the objective prejudicial circumstances that prevailed within that venue.

24. The conclusion of the *en banc* majority judgment is captured in the following passage:

> "In sum, to establish a presumption of juror prejudice necessitating Rule 21 change of venue, a defendant must demonstrate that (1) widespread, pervasive prejudice and prejudicial pretrial publicity saturates the community, and (2) there is a reasonable certainty that the prejudice prevents the defendant from obtaining a fair trial. We find that the defendants in this case failed to meet this two-pronged test. They failed to show that so great a prejudice existed against them as to require a change of venue under Rule 21, in light of the court's effective use of prophylactic measures to carefully manage individual voir dire examination of each and every panel member and its successful steps to isolate the jury from every extrinsic influence. Under these circumstances, we will not disturb the district court's broad discretion in ruling that this is not one of those rare cases in which juror prejudice can be presumed." (footnotes omitted)

25. It is instructive to note that the *en banc* majority was assured that community prejudice was not established by the defendants on the basis of the district court's careful management of the jury appointment process and its successful steps to isolate the jury from every extrinsic influence. We have two difficulties with this conclusion. The first is that the management of the jury selection process could have nothing to do with pervasive community prejudice and its control. This, no court had the power to do. Second, the jurors went back into the storm of media publicity and to the communities in which the pervasive prejudice existed every

time they were not in court. These jurors could in the circumstances hardly have liberated themselves from the pervasive community prejudice for to do so would have required their total isolation from their communities. This the District Court judge did not and could not do. We find the 3 judge change of venue decision and the *en banc* minority position more palpable and persuasive. It is appropriate in our view in a case of this kind for a political decision-maker to take account of differences of opinion amongst judges in cases where people are convicted of crimes and sentenced to terms of imprisonment as an important factor in determining whether the political decision to pardon accused persons should be exercised. Here, three judges (Birch J, Kravitch J and Oakes J), were strongly of the view that the change of venue application should have been granted. Although ten judges were not of that view, we would suggest, that the issue is not one of numbers alone. At this late stage, we suggest that the serious disputation around a change of venue question is certainly one of the factors that fall to be taken into account in determining whether the defendants should be pardoned. It is by no means the only factor.

(b) *Fair and speedy trial (Preliminary Report)*

26. The first finding in our preliminary report was that we had serious concerns about whether the Cuban 5 had the full benefit of the fundamental human right to a fair and speedy trial before an independent and impartial tribunal or Court, recognized universally in the International Covenant on Civil and Political Rights as ratified by the United States of America.

27. We start by pointing out that the right to a fair and speedy trial is guaranteed in the 5th and 6th Amendments of the United States Constitution. International human rights instruments like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, the American Convention on Human Rights all insist upon the right to a fair trial. By way of example the International Covenant on Civil and Political Rights imposes on all State parties (the United States of America is included) "a fair ...hearing by a(n)....impartial tribunal."

28. There are a number of grounds upon which the preliminary report raises concerns about the fairness of the trial. Each must be dealt with in turn.

(i) Solitary confinement

29. The preliminary report states that "all five Cuban Nationals were placed in solitary confinement for about seventeen months before the trial began". Between their arrest and the trial the Cuban 5 were detained with no right to bail for 33 months; they were kept in isolation for 17 months; they were again placed in solitary confinement for a further 48 days.

Again during preparations for the appeal they were sent to isolation cells on orders from Washington. It is plain that it was extremely difficult for all 5 of these human beings to consult with their legal representatives and to properly prepare for their trial or appeal. This seems to have been deliberate in an effort to disadvantage the defendants on trial. The European Court of Human Rights has held[9] that solitary confinement for 4 days and 6 hours violates the right to a fair trial. We do not wish to burden this report unduly but say emphatically that international and humanitarian standards make it plain that the periods of solitary confinement imposed on the Cuban 5 was far too long and impacts severely on the fairness of the trial. The families have stated that the fact that they were prevented from visiting the Cuban 5 during these times has had a tremendous impact upon them; the lawyers have stated that these periods of solitary confinement prevented them from preparing properly for the trial and appeal; Mr Gonzalez has made it plain that it was difficult beyond measure to prepare for trial and to maintain contact with lawyers and family. The demeaning and crushing effect of these long periods of solitary confinement on the very personalities and souls of the Cuban 5 can never be over-emphasised. This egregious infringement is, in our view, by itself enough to vacate all the judgments against the Cuban 5.

(ii) Consultation with legal representatives

30. We confirm our preliminary view that the "opportunity to consult with their legal representatives was, in all the circumstances, less than sufficient". This conclusion is inextricably bound up with the incontrovertible fact of their unduly extensive solitary confinement. No more need be said on this issue.

(iii) Trial delay

31. It was also unfair in our view that these "five human beings were certain of their fate only eight years after the trial in the District Court had been concluded". Indeed it was 11 years after the defendants were first arrested in 1998 that the United States Supreme Court refused them leave to appeal. This delay was undue and should also be taken into account as a factor in considering the pardon.

(iv) Access to relevant documents

32. Our preliminary report recorded our concern that none of the Cuban 5 "have had sufficient access to documents relevant to the trial and necessary for the adequate preparation of a

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[9] Brogan et al v United Kingdom 10/1987/133/184/187, November 29 1988 para 62.

defense". There were thousands of documents. The Cuban 5 were denied access to even those documents which had been taken from them at the time when they were arrested and those documents that were copied from the hard drive of the computer of one of the defendants. It is impossible to know what purpose would be served (except the purpose of a deliberate unfair trial) by denying access to documents which had been taken from the defendants themselves.

(v) Government funding media

33. We were also concerned that "serious allegations have been made that the United States Government paid the media to ensure prejudicial publicity against these persons both before and during the trial". We do not elaborate on these allegations in this report but the details are readily available. The averments are new and were raised to our knowledge for the first time during this hearing. We recommend that the United States Government takes measures to investigate these matters carefully and if true, to determine who in government is responsible and to ensure that appropriate action be taken. We must say though that we find these averments cogent. At the very least if the State itself contributed deliberately to an unfair trial by stoking up media publicity this factor counts heavily for the defendants being pardoned.

(c) Fair Trial additional findings

34. Inappropriate, highly prejudicial and irrelevant comment and argument was placed before the jury in circumstances where it is difficult to conceive members of the jury being able to disabuse their minds of the comments unbecoming of the representatives of the United States Government.

35. Examples of these comments are that "the Cuban government" had a "huge" stake in the outcome of the case and that the jurors would be abandoning their community unless they convicted the "Cuban sp[ies] sent to ... destroy the United States". The Cuban government sponsored "book bombs," "telephone threats of car bombs," and "sabotage," and "killed four innocent people." Cuba "was not alone" in shooting down civilian aircraft as they "are friends with our enemies," including "the Chinese and the Russians," It argued that Cuba was a "repressive regime [that] doesn't believe in any [human] rights." The jury was "not operating under the rule of Cuba, thank God."[10]

36. Although the defendants' objections were sustained, and the jury was instructed to consider only the

[10] Paragraph 1171 of *en banc* minority judgment (footnotes omitted).

evidence admitted during the trial and to remember that the lawyers' comments were not evidence, we are of the view that comments as serious as these could not be entirely cancelled by a judicial instruction.

(d) Other factors mentioned in the Preliminary Report to be taken into account

37. We mention a number of other factors in the preliminary report that were to be taken into account in a consideration of the pardoning and release of the Cuban 5. We elaborate here that each of these factors is really concerned with the issue of sentence on the assumption that the convictions were correct. We wish to expound the view that if each of these factors is properly taken into account the conclusion is inescapable that all of the members of the Cuban 5 have already served enough time in prison to justify their pardon and release. It must be borne in mind that the 3 members of the Cuban 5 who are still in prison have been there for 16 years since their arrest.

38. We have had extensive and persuasive argument to the effect that bearing in mind the extent of murderous activity which resulted in deaths of civilians and tourists in Cuba, that the government of Cuba was entitled to take measures and gather information to protect its own citizens. Although we find these arguments cogent, the actions of the Cuban 5 are in any event wholly understandable from any reasonable moral perspective or any patriotic standpoint.

39. According to all the judgments not one of these persons either committed or intended to commit any act of violence.

40. No conduct of any of these persons was aimed at the United States of America or its Government. The Cuban 5 gathered information aimed at preventing privately-inspired violence and other anti-Cuban action emanating from United States soil. All five persons acted in defence of their motherland and not in opposition to the stated objectives of the Government of the United States of America.

41. It was the perception of the Cuban 5, indeed their firm belief, that the United States Government was not doing enough to stem violent anti-Cuban action from United States soil.

42. There is no doubt at all that hundreds of compatriots and countrymen who were ordinary citizens of Cuba have died in unacceptably horrendous circumstances as a result of the actions of Cubans opposed to the Castro government in Cuba from United States soil. The families of the deceased would have suffered immeasurably.

43. Most importantly, insofar as the personal circumstances of the Cuban 5 are concerned, full weight must be given to the fact that each of these human beings genuinely believed that their actions and their cause were both laudable and fully morally justified in defence of their motherland, and that they have done nothing morally objectionable.

(e) <u>Conspiracy to commit murder</u>

44. Mr Hernández was also convicted of a conspiracy to commit murder. It may be briefly stated by way of background that during the period 1995 to 1996 a Cuban American Mr Basulto was in charge of an organisation called Brothers to the Rescue which, amongst other provocative acts frequently invaded Cuban air space despite the fact that he, Brothers to the Rescue and the American government were repeatedly warned about not doing so. During a flight in January 1996 two of the Brothers to the Rescue airplanes were shot down by the Cuban Airforce as a result of which the pilots died.

45. It must be mentioned that there was a debate about whether the aeroplanes were shot down in Cuban airspace or in neutral airspace between the United States and Cuba. We heard evidence to the effect that the American authorities are in possession of satellite information that would establish precisely where the aeroplanes were at the time when they were shot down. The importance of the resolution of this dispute is that if the aeroplanes were shot down in Cuban airspace nobody could have been found guilty in relation to that shoot down.

46. Mr Hernández was convicted on the conspiracy to murder charge on the basis that he entered into a conspiracy which led to the shoot down. The judges in the Court of Appeals of the 11th Circuit who decided the merits of the appeal differed on whether Mr Hernández had been rightly convicted of the conspiracy to murder. We have no hesitation in saying that we agree with the minority judgment of Kravitch J to the effect that the conspiracy to commit murder charge had not been established. In any event at the factual level, there is no evidence that Mr Hernández knew that the aeroplanes would be shot down before they entered Cuban airspace if that had indeed been the case.

47. As far as we are concerned there are two possibilities. The first is that the aeroplanes that were shot down did enter Cuban airspace in which case the shoot down was justified and Mr Hernández could not be convicted of murder. If on the other hand, the aeroplanes were shot down before they entered Cuban airspace there is nothing to suggest that Mr Hernández knew that the aeroplanes would be shot down or that there was a plan to shoot down these aeroplanes before they entered Cuban airspace. In any event we would suggest that Mr Hernández's participation in the entire exercise was so minimal that the double life imprisonment term was wholly unjustified. This minimal participation too must be taken

into account and serves as a further important reason that Mr Hernández in particular should be pardoned and released immediately.

(E) Final motivation

48. We think it is now appropriate to repeat the final motivations and recommendations as it was encapsulated in the preliminary report.

49. Two of the members of this group of persons have already served their full sentences, and there can be no prejudice in pardoning them now.

50. The other three persons have, in any event, already served inordinately long periods of imprisonment in all the relevant circumstances summarised in this report.

51. The families of these people have undergone tremendous suffering and hardship in consequence of the internment of their loved ones, and it can be said without any fear of contradiction that enough is enough.

52. None of these persons acted out of malice or any kind of ill will towards the United States or its Government, people, or policies: each of them was carrying out the instructions of their government.

53. Private anti-Cuban aggression from American soil is quite impossible to be justified from any viewpoint.

54. It is urged that the normalization of relations between Cuba and the United States is a laudable and achievable goal, in the interests of both the United States of America and the Republic of Cuba, and that the generous grant of pardons by the President of the United States of America to the people who have been described as the Cuban 5 will contribute immeasurably to the achievement of this vitally important purpose.

55. The President of the United States is also respectfully informed of the prevailing reasonable view that it is important to signal that the achievement of fairness and justice is not the preserve of the judiciary alone of any country, but, ultimately, a vital political responsibility that must be embraced when the moment comes.

56. It is suggested, with the greatest of respect, that the grant of these pardons will have a significant impact on world justice and world peace.

57. In summary, the grant of unconditional presidential pardons to the members of the Cuban 5 has the real potential to achieve effective justice for the five human beings who have been the concern of this enquiry, demonstrate the adherence of the President of the United States of America and its Government today to universally accepted norms of morality, fairness and justice, contribute substantially to the normalization of relations between the United States and Cuba and represent a meaningful stride towards world justice and world peace.

58. Having heard two full days of compelling evidence, we urged the President of the United States of America, President Barack Obama, to pardon completely all these five persons and to release immediately and unconditionally the three persons who continue to languish in prison in the United States.

CONCLUSION

59. We reiterate and urge once again the President of the United States of America to pardon each of the persons who have come to be referred to as the Cuban 5 and to unconditionally and immediately release those of the Cuban 5 who remain incarcerated.

60. We also emphasise the salutary fact that this course is supported by Amnesty International. In addition, we make a fervent call on the international community, all international organisations, and all States to leave no stone unturned in persuading the United States of America to embark upon this course.